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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,767	02/10/2006	Christoph Muther	06-162	5327
34704 7590 07/20/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER KRECK, JOHN J	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 07/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,767	<b>Applicant(s)</b> MUTHER, CHRISTOPH	
	<b>Examiner</b> John Kreck	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment dated 6/13/07 is entered.

Claims 1-13 are pending.

Applicant's election without traverse of claims 1-13 in the reply filed on 6/13/07 is acknowledged.

The references cited in the Search Report dated 03.06.2005 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 1-13 are indefinite regarding ""with constituents of a ceramic binder system". It is not clear what is encompassed by that limitation.

Claim 4 is unclear regarding the language after "preferably". It is not clear whether this is a required limitation.

Claim 8 is unclear regarding the language after "possibly". It is not clear whether this is a required limitation.

Claim 13 is unclear regarding the language after "in particular". It is not clear whether this is a required limitation.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements. See MPEP § 2172.01. The omitted elements are: see pages 19 and 20 of applicant's specification. On page 20, line 3, and page 20 , fourth line after the first table; two "essential" components are described. It is noted that these components appear to be known by the trade names "Consolid444®" and "Solidry®".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-3, 6- 9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Longo, Sr. (U.S. Patent number 5,857,807).

Longo describes the waste disposal site including a trough(6) comprising a bottom (6') and side walls (6''), the trough bottom including at least two water tight layers (e.g. 32,38) and constituents of a ceramic binder system (e.g. 30).

RE claim 2: the plastic liner is at 36.

RE claim 6: See column 4, lines 9-12.

RE claim 8: the claimed humus is deemed to be anticipated by the topsoil 46.

4. RE claim 9: this claim is interpreted as a product-by process claim: the ash disclosed by Longo appears to be substantially identical to the claimed inorganic binder.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SOLIDRY® CONC safety data sheet; CONSOLID® 444 safety data sheet; "Sourcebook of Alternative Technologies for Freshwater Augmentation in East and Central Europe" ; and Longo, Sr.

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Note that the safety data sheets are dated 03/09/2003 and 18/12/2003, but are useful as teaching the constituents of the known Solidry® system. The "Sourcebook" is printed from archive.org, which indicates that it was published in the web in 2002.

The "Sourcebook" describes a waste disposal site ( see page 2 of printout, after "The landfill...") including at least two water tight layers. THE Sourcebook fails to explicitly disclose the trench, and the ceramic binder system, but teaches the use of Consolid®C444 and Solidry®.

The safety data sheets provide evidence that the material includes constituents of a ceramic binder.

Longo teaches that landfills can advantageously be made with a trench (6). This keeps the waste in place.

Therefore one of ordinary skill in the art at the time of invention would have found it obvious to have modified the system described in the "Sourcebook" to have included ceramic binder and trench as called for in claims 1.

RE claim 2: the plastic film is described in the "Sourcebook" insofar as the sourcebook lacks disclosure of the "flat" feature, this is shown by Longo.

RE claim 4: Longo lacks explicit disclosure of the angle of the trench, however one of ordinary skill in the art would have found an angle as claimed to be obvious, since Longo appears to show a 135° angle (i.e. 45° slope).

RE claim 5: the sourcebook describes the "graded" base. Official Notice is taken of the fact that it is common to grade such bases at up to 10°: in order to facilitate drainage.

Therefore one of ordinary skill in the art at the time of invention would have found it

obvious to have modified the system described in the sourcebook to be sloped at up to 10°.

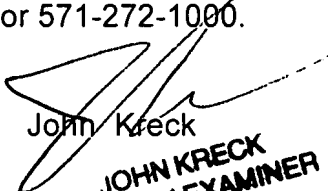
RE claims 6-8: the covering is taught by Longo.

RE claims 9-13: the claimed features of the binder system are believed to be anticipated by the Solidry® and Consolid® system, as taught by the "sourcebook" and/or the safety data sheets. See page 9, last paragraph of applicant's specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Thurs 530am-2pm; Fri: telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
John Kreck  
JOHN KRECK  
PRIMARY EXAMINER